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was sufficient consideration for the other partners' contract to give him a share in the profits, though when he withdrew from the firm he remained liable to the government and the firm's surety.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. § 5.* 10 Va.-W. Va. Enc. Dig. 869.]

7. Partnership (§ 86*)—Accounting—Profits of Firm.—Where a firm agreed to pay a member who had withdrawn by consent a share of the profits realized by the firm from a government contract assigned by the firm, profits realized by the firm, after its assignee had failed to carry out the contract, by turning the work over to others, were profits realized by the firm in the matter of the contract with its assignee, to a share of which the partner who had withdrawn was entitled.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. § 134.* 10 Va.-W. Va. Enc. Dig. 881.]

Appeal from Chancery Court of Richmond.

Suit by M. Kelly against S. P. Clay and others, wherein Clay died pending suit; the cause being revived against his administrator. From a decree settling the principles of the cause in favor of complainant and directing an account, Clay's administrator appeals. Affirmed.

Leake & Buford, A. W. Patterson, and Cutchins & Cutchins, all of Richmond, for appellant.

A. L. Holladay and Kelley & Coulbourn, all of Richmond, for appellee.

WILLIAMS *v.* BOND et al.

March 15, 1917.

[91 S. E. 627.]

1. Trusts (§ 244*)—Death of Trustee—Duties of Executor.—The executor of a deceased person who during his life was charged with execution of a trust, which trust in part remained unexecuted on his death, has the duty under Code 1904, § 3419, of completing the execution of the trust.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 351.* 13 Va.-W. Va. Enc. Dig. 330.]

2. Trusts (§ 178*)—Death of Trustee—Duties of Executor—Actions.—Such executor therefore could properly bring suit to determine and construe the conditions of the will creating the trust where

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

difference of opinion arose between him and the beneficiaries of the trust as to the respective rights of the parties.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 232.* 13 Va.-W. Va. Enc. Dig. 329.]

3. Trusts (§ 316 (1*))—Compensation of Trustee—Wills—Construction.—Notwithstanding the will named an executor and provided, "I give my said executor the sum of \$500 as compensation for his services," after having created a trust placing the executor in charge thereof, he could collect a commission of 5 per cent. on the first \$300 and 2 per cent. on the remainder of the trust fund, which consisted of bank stock, when he transferred it to himself as trustee, and further 5 per cent. on dividends paid by him under the trust.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. §§ 445-454.* 13 Va.-W. Va. Enc. Dig. 335.]

4. Trusts (§ 316 (2*))—Compensation—Wills—Construction.—In such case, where the value of the stock was greatly enhanced during the trust period, the executor was entitled to compensation only on the basis of its value when it came into his hands, and not its value at the end of the trust.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. §§ 455-459.* 13 V.-W. Va. Enc. Dig. 335.]

5. Trusts (§ 178*)—Execution—Action—Costs and Fees.—Where an executor and trustee died, and his executor, being charged under Code 1904, § 3419, with executing the trust, brought suit to determine the rights of the parties and his own compensation, he was entitled to his costs and a reasonable attorney's fee.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 232.* 13 Va.-W. Va. Enc. Dig. 376.]

Appeal from Circuit Court, Orange County.

Suit by Lewis C. Williams, as executor of John G. Williams, deceased, against Robert L. Bond and others. From the decree rendered, the complainant appeals. Amended and affirmed.

From this decree Lewis C. Williams, executor obtained this appeal.

Williams & Mullen, of Richmond, and *Shackelford & Shackelford*, of Orange, for appellant.

A. T. Browning, of Orange, and *Gordon & Gordon*, of Louisa, for appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.